

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Gold'n Plump Poultry, Inc.; Gold'n  
Plump Farms Limited Partnership, LLP,

Court File No. \_\_\_\_\_

Plaintiff,

v.

**NOTICE OF REMOVAL**

Wenda America, Inc.,

Defendant.

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TO: Clerk of the United States District Court, District of Minnesota, Minneapolis,  
Minnesota.

**PLEASE TAKE NOTICE** that Defendant Wenda America, Inc. pursuant to 28 U.S.C. §§ 1441 and 1446, files this Notice of Removal removing this action from the District Court, Seventh Judicial District, County of Stearns, State of Minnesota, to the United States District Court for the District of Minnesota. In support of this Notice of Removal, Defendants state:

1. Plaintiffs served Wenda America, Inc. with a copy of the Summons and Complaint entitled "Gold'n Plump Poultry, Inc.; Gold'n Plump Farms Limited Partnership, LLP v. Wenda America, Inc." on November 29, 2012. Attached as Exhibit A is a copy of Plaintiffs' Complaint and all process, pleadings and orders served on Wenda America, Inc. to date.

2. As 30 days have not elapsed since Wenda America, Inc. first received Plaintiffs' Complaint, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

3. Plaintiff, Gold'n Plump Poultry, Inc., is a Minnesota corporation with its principal place of business in St. Cloud, Minnesota.

4. Plaintiff, Gold'n Plump Farms Limited Partnership, LLP, is a Minnesota limited partnership with its principal place of business in St. Cloud Minnesota. Upon information and belief, the partners in Gold'n Plump Farms Limited Partnership, LLP are all residents of Minnesota.

5. Defendant, Wenda America Inc., is an Illinois corporation with its principal place of business in Naperville, Illinois.

6. Removal in this case is proper pursuant to 28 U.S.C. § 1441(b) because the Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1332, based on diversity of citizenship and because the amount in controversy exceeds \$75,000, exclusive of interests and costs. Wenda America, Inc. bases its conclusion that the amount in controversy exceeds \$75,000 on Plaintiffs' factual allegations that they suffered "substantial damages" including lost sales and lost orders, "costs to procure replacement product, costs relating to product testing, storage and disposal and additional labor costs." (Ex. A, ¶42.)

7. Nothing herein constitutes a waiver of any of Defendant's respective rights or defenses, including but not limited to Defendant's right to seek dismissal of the Complaint on the ground that Plaintiffs have failed to state legally cognizable causes of action.

8. Promptly after the filing of this Notice of Removal, written notice of such filing will be given by the undersigned to counsel for Plaintiffs. A copy of this Notice

will also be filed with the Court Administrator of the District Court, Seventh Judicial District, County of Stearns, State of Minnesota. (*See* Exhibit B attached hereto).

WHEREFORE, having provided notice as required by law, Defendant Wenda America, Inc. hereby removes Plaintiffs' Complaint from the District Court, Seventh Judicial District, County of Stearns, State of Minnesota, to the United States District Court for the District of Minnesota.

**ANTHONY OSTLUND  
BAER & LOUWAGIE P.A**

Dated: December 28, 2012

By: s/ Brooke D. Anthony

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WENDA AMERICA, INC.**